IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1256 OF 2005

M/s.N. Kirtikumar & Company .. Petitioner.

V/s.

P.K. Chopra, Commissioner of Income-tax, Mumbai-XVI, Mumbai & Others .. Respondents.

Mr.A.K. Jasani for the petitioner.

Mr.A.S. Rao for the respondents.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 4TH MAY, 2005.

P.C. :

1. The advocate on record for the revenue waives service. Perused record.

2. By consent, rule is taken on board for hearing.

3. Having considered the impugned order dated 31st March, 2005, we find that the Commissioner of Income Tax, Mumbai-XVI failed to take into consideration the relevant aspect that the petitioner did receive the sale proceeds from some parties after some time over which the petitioner had no control. By overlooking this vital aspect the impugned order

is vitiated.

4. We, accordingly, quash and set aside the order dated 15th March, 2004 passed by the Commissioner of Income Tax, Mumbai XVI and direct him to pass appropriate order afresh in consonance with the provisions of section 30HHC(2) (a) after giving an opportu ity of being heard to the petitioner.

5. Petition stands disposed of accordingly. However, there will be no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)